

REMARKS

Claims 12-16 are pending in this application. By this Amendment, claims 12-15 are amended and claims 1-11 are canceled without prejudice or disclaimer. Support for the amendments to claims 12 and 13 can be found at least in the specification at page 23, lines 10-21 and page 25, line 10 - page 26, line 26. Thus, no new matter is added.

Applicant appreciates the courtesies shown to Applicant's representative by Examiner Lee in the April 12 personal interview. Applicant's separate record of the substance of the interview is incorporated into the following remarks.

I. IDS Acknowledgement

Applicant requests that the Information Disclosure Statement filed on April 26, 2002 be considered and acknowledged by the Examiner. A copy of the Information Disclosure Statement and PTO Form 1449 are attached hereto for the Examiner's convenience.

II. Restriction Requirement

The Office Action asserts that a complete reply to the Rejection must include cancellation of non-elected claims 1-11 or other appropriate action. By this Amendment, claims 1-11 are canceled without prejudice or disclaimer. Accordingly, the response satisfies 37 C.F.R. §1.144.

III. Claims Define Patentable Subject Matter

A. 35 U.S.C. §102(b)

The Office Action rejects claims 12, 13 and 16 under 35 U.S.C. §102(b) over U.S. Patent No. 5,561,525 to Toyonaga et al. This rejection is respectfully traversed.

Claims 12, 13 and 16 are not anticipated by Toyonaga. As agreed during the personal interview, Toyonaga does not disclose a surface shape measuring apparatus that includes "a restricting member disposed in a position in an optical path that is optically conjugate with said surface to be measured," as recited in amended independent claim 12. Toyonaga only

discloses an interferometer that includes a variable aperture stop arranged at a Fourier transform image plane of the surface to be detected, where the aperture diameter of the variable aperture stop is adjusted. See e.g., Toyonaga, Abstract. Thus, Toyonaga does not disclose the surface shape measuring apparatus recited in claim 12.

Thus, claim 12, and claims 13 and 16 dependent therefrom, are not anticipated by Toyonaga. Withdrawal of the rejection is respectfully requested.

B. 35 U.S.C. §103(a)

The Office Action rejects claims 14 and 15 under 35 U.S.C. §103(a) over Toyonaga and further in view of U.S. Patent No. 5,184,196 to Nakagawa et al. This rejection is respectfully traversed.

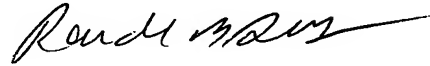
Nakagawa does not remedy the deficiency of Toyonaga as discussed above with respect to claim 12. Thus, claims 14 and 15, which depend from claim 12, also are patentable. Withdrawal of the rejection is respectfully requested.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachments:

April 26, 2002 Information Disclosure Statement
Petition for Extension of Time

Date: April 18, 2005

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